

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING FINAL  
ACCEPTANCE OF CERANO APARTMENTS PROJECT, PROJECT NO. 3170, AND RELEASE OF THE  
DEVELOPER'S LETTERS OF CREDIT**

**WHEREAS**, certain improvements were installed by the Cerano Apartments Project, Project No. 3170, under and pursuant to the provisions of an improvement agreement between the City of Milpitas, a municipal corporation of the State of California, and Fairfield Murphy Road, LLC, a Delaware limited liability company (Developer); and

**WHEREAS**, said Developer, as principal, and the Developer's Bonding and Insurance Company, as surety, executed certain faithful performance letters of credit conditioned upon the faithful performance of the provisions of said improvement agreement and upon the faithful performance of all improvement work required thereunder; and

**WHEREAS**, said improvements were completed, finally inspected by the City Engineer of the City of Milpitas, and accepted; and

**WHEREAS**, a period of one year or more has expired after the date of said acceptance of said improvements; and

**WHEREAS**, the City Engineer has advised said City Council that said Developer has remedied, restored, repaired, or replaced at its sole expense and to the satisfaction of said City Engineer all defects, damages, or imperfections, if any there were, due to or arising from faulty materials or workmanship and appearing within said period of one year from the date of acceptance; and

**WHEREAS**, said City Engineer recommends to the City Council that said faithful performance letters of credit be released.

**NOW, THEREFORE**, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City of Milpitas does finally accept said improvements. Those certain performance letters of credit furnished by the above-named contractor, as principal, and the above-named surety in connection with those certain improvements for the above-designated project, are hereby released and discharged; provided, however, that nothing herein contained shall in any way be deemed to be a waiver, release or relinquishment by City of any obligations imposed upon the Developer or its surety, or sureties, by law or by the above-referenced improvement contract, save and except those obligations specifically mentioned herein.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM

\_\_\_\_\_  
Michael J. Ogaz, City Attorney